

### REMARKS

This is in response to the final action of October 7, 2008, in which the claims were rejected as being unpatentable over Halkosaari et al (U.S. 20020193136 A1), in view of Hill et al (U.S. 6453155 B1), and further in view of a new reference: Takagi (U.S. 5111503 A). The present independent claims are claims 1, 16, and 20.

#### **Halkosaari Cannot Preclude Patentability**

It has come to Applicant's attention that Halkosaari was assigned to the assignee of the present application, before the present applications' priority date. See Reel/Frame 012180/0689. Applicant respectfully submits that Halkosaari cannot preclude patentability, according to 35 U.S.C. § 103(c)(1).

The Halkosaari application was filed on June 19, 2001. Halkosaari was assigned to Nokia on September 19, 2001. The priority date of the present Nokia application was July 16, 2002. The Halkosaari application was subsequently published on December 19, 2002.

#### **The Present Application Is Not Obvious Even in View of Halkosaari**

The final Office Action asserts that claims 1-11, 14-16 and 20-21 are obvious in view of Halkosaari, Hill and Takagi. The Office Action also asserts that claim 12 is obvious in view of the cited art and further in view of Badillo (U.S. 6729518). Furthermore, the Office Action asserts that claim 13 is obvious in view of Halkosaari, Hill, Takagi and Mitchel (U.S. 6082535).

Applicant respectfully disagrees that it would be obvious to combine the teachings of Halkosaari, Hill and Takagi. Even if the teachings of Halkosaari, Hill and Takagi were combined, it would not result in a mobile telephone as recited in claim 1 of the present application.

The new Takagi reference discloses (with reference to the example in Fig. 8) a portable telephone set having a body 1 and a cover 14' that is pivotably mounted to the body. The cover 14' is formed of a material capable of being deformed elastically such as rubber or soft elastomer. The cover 14' is configured to pivot from a position in which the switch portion 8 is accessible to a user and to a position in which the switch portion 8

is not accessible to a user. Takagi does not disclose that the body 2 is formed from an elastically deformable material.

Halkosaari teaches that the housing 8 should be stiff so that the seal 42 may be held together with as few fasteners as possible (please see end of paragraph 16). This feature addresses the problem mentioned in paragraph 4 (i.e., how to provide a waterproof seal between two covers which may also be easily changed by a user). Thus, it would not be obvious to combine the teachings of Halkosaari and Hill, since Halkosaari explicitly teaches against using flexible covers, as they require a greater number of fasteners to provide a waterproof seal and are therefore more difficult for a user to change. Consequently, one skilled in the art would not look to the teaching of Hill given the teaching of Halkosaari.

Hill teaches using a shapeable material 20 that is capable of being molded into a shape and will then retain that shape until it is molded into another shape (col. 1, lines 42-45 and col. 2, lines 1-19). It would not be obvious to combine the teachings of Hill and Takagi, because Takagi teaches using an elastically deformable cover 14', which is contrary to the above teaching of Hill. Consequently, one skilled in the art would not look to Takagi given the teaching of Hill.

Applicant also respectfully reiterates that even if the teachings of Halkosaari, Hill and Takagi were combined, it would not result in a mobile telephone as recited in claim 1 of the present application. In Takagi, the cover 14' is merely a shield for the switch portions 8 and does not overlay the engine assembly without an intermediate rigid cover, as recited in claim 1. Furthermore, the cover 14' does not comprise an integrated keypad. Consequently, even if the teachings of these documents were combined, it would merely result in a mobile telephone having an elastically deformable, pivotable shield for the keypad, as illustrated in Takagi.

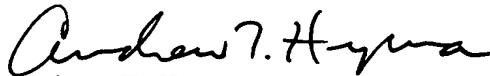
None of the cited prior art documents discloses "a substantially fabric or leather flexible cover overlying, without an intermediate rigid cover, and snugly fitting the engine assembly . . ." as recited in claim 1.

Respectfully, the Office Action's analysis of claims 12 and 13 is incorrect. Badillo and Mitchel both disclose providing a cover for a mobile device. They do not disclose providing a cover for an engine assembly. Therefore, even if the cited prior art

documents were combined as described by the Office Action, it would not result in a mobile telephone as recited in claims 12 and 13, since one skilled in the art would merely provide a cover for a mobile telephone and not a cover for an engine assembly.

The rejections of claims 1-9, 11-16, 20 and 21, having been shown to be inapplicable, withdrawal of same is respectfully requested, and passage of the claims to issue is earnestly solicited.

Respectfully submitted,



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